

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

AGSPRING, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 23- 10699 (CTG)

(Jointly Administered)

**DEBTORS' MOTION SEEKING ENTRY OF AN ORDER (I) AUTHORIZING THE
DEBTORS TO REDACT CERTAIN PERSONALLY IDENTIFIABLE INFORMATION
FOR INDIVIDUAL CREDITORS AND INTEREST HOLDERS AND (II) GRANTING
RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) respectfully state as follows in support of this motion:

Relief Requested

1. The Debtors seek entry of an order (the “Order”), substantially in the form attached hereto as **Exhibit A**: (a) authorizing the Debtors to redact certain personally identifiable information for the Debtors’ individual creditors and interest holders; and (b) granting related relief.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Agspring, LLC (7735); Agspring Idaho 1 LLC (1720); Agspring Idaho LLC (8754); FO-ND LLC, dba Firebrand Artisan Mills (1520); Agspring Logistics LLC, dba Agforce (6067); and Agspring Idaho 2 LLC (9262). The Debtors’ mailing address is 5101 College Boulevard, Leawood, KS 66211.

of Bankruptcy Procedure (the “Bankruptcy Rules”), and rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory bases for the relief requested herein are sections 105(a), 107(c), 342(a), and 521 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), Bankruptcy Rules 1007, 2002, and 9013-1, and Local Rules 1001-1(c), 1007-1, 1007-2, and 2002-1.

Background

5. On May 31, 2023 (the “Petition Date”), each of the Debtors commenced a voluntary case for relief under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee has been appointed in the chapter 11 cases.

6. Factual background regarding the Debtors, including the events precipitating their chapter 11 filings, is set forth in the *Declaration of Kyle Sturgeon in Support of Chapter 11 Petitions* [Docket No. 3], filed on the Petition Date and incorporated herein by reference.

Basis for Relief

7. Section 107(c) of the Bankruptcy Code provides that the Court “for cause, may protect an individual, with respect to the following types of information to the extent the court

finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual[:] . . . [a]ny means of identification . . . contained in a paper filed, or to be filed in a case under” the Bankruptcy Code. 11 U.S.C. § 107(c)(1)(A).

8. The Debtors respectfully submit that it is appropriate to authorize the Debtors to redact from any paper filed or to be filed with the Court in these chapter 11 cases the home addresses of individuals—including the Debtors’ employees and former employees—because such information could be used, among other things, to perpetrate identity theft or to locate survivors of domestic violence, harassment, or stalking. This risk is not merely speculative. In at least one chapter 11 case, the abusive former partner of a debtor’s employee exploited the publicly accessible creditor and employee information filed in the chapter 11 case to track the employee to her new address, which had not been publicly available until then, forcing the employee to change addresses again for her safety.² The Debtors propose to provide, on a confidential basis, an unredacted version of each of their lists of creditors (collectively, the “Creditor Matrix”) and any other applicable filings to (a) the Court, the U.S. Trustee, counsel to any official committee of unsecured creditors appointed in these chapter 11 cases, and (b) upon a request to the Debtors (email is sufficient) or to the Court, any other party in interest to these chapter 11 cases that has a reasonable and legitimate basis for requesting such information. In addition, the Debtors will distribute to their former employees any notices that are received at the Debtors’ corporate headquarters and are intended for an employee.

9. Courts in this jurisdiction have granted the relief requested herein in comparable

² The incident, which took place during the *Charming Charlie* chapter 11 proceedings in 2017, is described in the “creditor matrix motion” filed in *In re Charming Charlie Holdings Inc.*, No. 19-11534 (CSS) (Bankr. D. Del. July 11, 2019) [Docket No. 4].

chapter 11 cases. *See, e.g., In re GigaMonster Networks, LLC*, No. 23-10051 (JKS) (Bankr. D. Del. Jan. 18, 2023) authorizing the debtors to redact the home addresses of individuals listed on the creditor matrix and the names and address information of individuals); *In re Medly Health Inc.*, No. 22-11257 (KBO) (Bankr. D. Del. Dec. 13, 2022) (same); *In re First Guaranty Mortgage Corporation*, No. 22-10584 (CTG) (Bankr. D. Del. July 1, 2022) (same); *In re Sequential Brands Group, Inc.*, No. 21-11195 (JTD) (Bankr. D. Del. September 2, 2021) (same); *In re Maines Paper & Food Service, Inc.*, No. 20-11502 (KBO) (Bankr. D. Del. June 12, 2020) (same); *In re Clover Techs. Grp., LLC*, No. 19-12680 (KBO) (Bankr. D. Del. Feb. 4, 2020) (same); *In re Forever 21, Inc.*, No. 19-12122 (KG) (Bankr. D. Del. Dec. 19, 2019) (same); *In re Destination Maternity Corp.*, No. 19-12256 (BLS) (Bankr. D. Del. Oct. 22, 2019) (authorizing the debtors to redact personally identifiable information of the debtors' employees); *In re Loot Crate, Inc.*, No. 19-11791 (BLS) (Bankr. D. Del. Oct. 1, 2019) (authorizing the debtors to file lists of customer creditors under seal); *In re Charming Charlie Holdings Inc.*, No. 19-11534 (CSS) (Bankr. D. Del. Jul. 12, 2019) (same).

10. In addition to granting the requested relief, courts in this district have also expounded on the importance of authorizing debtors to redact individual creditors' personally identifiable information, including home addresses in particular. In *Clover*, while overruling the objection of the U.S Trustee to the same redaction-related relief proposed here, Judge Owens noted that "[t]o me it is common sense. I don't need evidence that there is, at best, a risk of identity theft and worse a risk of personal injury from listing someone's name and address on the internet by way of the court's electronic case filing system and, of course, the claims agent's website. . . . The court can completely avoid contributing to the risk by redacting the addresses. And while there is, of course, an important right of access we routinely redact sensitive and confidential information

for corporate entities and redact individual's home addresses.” Hr’ing Tr. at 24:21-25, 25:9-10, *In re Clover Techs. Grp., LLC*, No. 19-12680 (KBO) (Bankr. D. Del. Jan. 22, 2020). In *Forever 21*, in overruling the U.S. Trustee’s objection, Judge Gross found that “[w]e live in a new age in which the theft of personal identification is a real risk, as is injury to persons who, for personal reasons, seek to have their addresses withheld.” Hr’g Tr. at 60:22–25, *In re Forever 21, Inc.*, No. 19-12122 (KG) (Bankr. D. Del. Dec. 19, 2019). Similarly in *Anna Holdings*, Chief Judge Sontchi also overruled the U.S. Trustee’s objection, emphasizing the importance of protecting individuals from unnecessary disclosure of such information, noting that “I think it’s just plain common sense in 2019—soon-to-be 2020—to put as little information out as possible about people’s personal lives to [prevent] scams. . . . So, you know, it’s a real-life issue, and, of course, the issue of domestic violence is extremely important.” Hr’ing Tr. at 48:20-25, 49:1–8, *In re Anna Holdings, Inc.*, No. 19- 12551 (Bankr. D. Del. Dec. 3, 2019).

11. For these reasons, the Debtors respectfully submit that cause exists to authorize the Debtors to redact, pursuant to 11 U.S.C. § 107(c)(1), personally identifiable information—including home addresses—in respect of the Debtors’ individual creditors and interest holders who are listed on the Creditor Matrix or any other document filed with the Court. Absent such relief, the Debtors would unnecessarily render individuals more susceptible to identity theft and could jeopardize the safety of these same individuals without any advance notice or opportunity to opt out or take protective measures.

Notice

12. Notice of this Motion shall be given to the following parties: (a) the Office of the United States Trustee; (b) counsel to the Debtors’ prepetition secured lenders; and (c) the Debtors’

largest unsecured creditors on an unconsolidated basis. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

13. No prior request for the relief sought in this motion has been made to this or any other court.

WHEREFORE, the Debtors respectfully request entry of an order, substantially in the form attached hereto as **Exhibit A**, (a) granting the relief requested herein and (b) granting such other relief as is just and proper.

Dated: June 12, 2023

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